

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

5 MARC J. SCHNEIDER (SBN
#214609)
6 YURI MIKULKA (SBN #185926)
7 STRADLING YOCCA CARLSON
& RAUTH
8 660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6422
9 Telephone: (949) 725-4000
Facsimile: (949) 725-4100
10 Email: mschneider@svcr.com
Email: vmikulka@svcr.com

JOSH KREVITT (SBN # 208552)
GIBSON DUNN & CRUTCHER LLP
200 Park Avenue
New York, NY 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035
Email: jkrevitt@gibsondunn.com

11 JONATHAN T. SUDER (*admitted Pro
Hac Vice*)
12 CORBY R. VOWELL (*admitted Pro
Hac Vice*)
13 GLENN S. ORMAN (*Pro Hac Vice to
be filed*)
14 FRIEDMAN, SUDER & COOKE
Tindall Square Warehouse No. 1
15 604 East 4th Street, Suite 200
Fort Worth, Texas 76102
16 Telephone: (817) 334-0400
Facsimile: (817) 334-0401
17 Email: its@fsclaw.com
Email: vowell@fsclaw.com
18 Email: orman@fsclaw.com

JASON LO (SBN #219030)
RAYMOND LAMAGNA (SBN
#244821)
GIBSON DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197
Telephone: (213) 229-7000
Facsimile: (213) 229-7520
Email: jlo@gibsondunn.com
Email: rlamagna@gibsondunn.com

Attorneys for Defendant
VIACOM INC.

19 Attorneys for Plaintiff
INTERTAINER, INC.

21 | INTERTAINER, INC.

Plaintiff

23 |

Defendant

CASE NO. 2:12-cv-05129-CJC (RNBx)

**JOINT STIPULATION TO STAY
CASE PENDING INTER PARTES
REEXAMINATION OF THE
PATENT-IN-SUIT**

1 In the above-captioned case, Plaintiff Intertainer, Inc. (“Intertainer”) accuses
2 Defendant Viacom Inc. (“Viacom”) of infringing Claims 83 and 88 of U.S. Patent
3 No. 7,870,592 (“the ’592 Patent”). In related cases, Nos. 8:11-cv-01208-CJC-
4 RNB and 2:12-cv-05127-CJC-RNB respectively, Intertainer has accused
5 Defendants Hulu, LLC and Discovery Communications, LLC of variously
6 infringing Claims 83 and 88 of that same patent.

7 On December 6, 2012, the U.S. Patent and Trademark Office (“PTO”)
8 granted *inter partes* reexamination of the ’592 Patent (Reexamination No.
9 95/002,358), making an initial determination that the claims of the ’592 Patent,
10 including Claim 83 and Claim 88, are unpatentable.

11 On December 17, 2012, the Defendant in a related case, Hulu, LLC, moved
12 to stay that case until the reexamination is concluded. (8:11-cv-01208-CJC-RNB,
13 Dkt. No. 49.) On December 21, 2012, Intertainer and Hulu, LLC filed a Joint
14 Stipulation to Stay Case Pending *Inter Partes* Reexamination of the Patent-In-Suit.
15 (*Id.* at Dkt. No. 50.)

16 Intertainer and Viacom subsequently met and conferred regarding the instant
17 litigation and agree that there are several bases of good cause to stay this case
18 while the reexamination is pending, including to conserve Court and party
19 resources and to avoid duplicative litigation.

STIPULATION

22 THEREFORE, Viacom and Intertainer, by and through their respective
23 attorneys, do hereby stipulate and agree as follows:

24 1. The entirety of this case is stayed, and all future hearing dates and other
25 deadlines are vacated.

26 2. The case shall be stayed at least until the PTO issues an Action Closing
27 Prosecution in Reexamination No. 95/002,358. Within 30 days of the PTO issuing

1 an Action Closing Prosecution, the parties shall jointly submit an update to the
2 Court informing it of the status of the pending claims and related appeals (if any).

3 3. If the Action Closing Prosecution finds that Claims 83 and 88 (as
4 currently issued or as amended in reexamination) are unpatentable, the case shall
5 remain stayed until (i) the reexamination is concluded through any appeals and the
6 PTO issues a Reexamination Certificate, or (ii) the parties agree otherwise.

7 4. If the Action Closing Prosecution instead finds that Claims 83 or 88 of
8 the '592 Patent (as currently issued or as amended in reexamination) are
9 patentable, then either party may move at anytime thereafter to lift the stay, subject
10 to conferring per the Local Rules and subject to the other party's right to oppose
11 such motion. Nothing herein determines the propriety of lifting or maintaining the
12 stay after an Action Closing Prosecution, such issue to be determined in light of the
13 facts, arguments, and authorities presented at that time.

14 5. Should the stay be lifted pursuant to the above, then within 30 days of the
15 lifting of the stay, the parties shall file a joint proposed scheduling order
16 identifying each agreed-upon proposed deadline (and if there are disputes as to any
17 deadlines, competing proposals for those deadlines and any argument) for the
18 remainder of the case.

19 6. If the stay is lifted before a Reexamination Certificate issues, then until
20 such a Reexamination Certificate issues: the parties and their witnesses may rely
21 on, cite, mention, and otherwise refer to the reexamination for most purposes in the
22 litigation, including but not limited to case management (e.g., filing a motion to lift
23 the stay identified in No. 4 above), claim construction, claim scope (e.g.,
24 infringement or noninfringement), and damages.

25 7. Neither the parties nor their witnesses may rely on, cite, mention, or
26 otherwise refer to the reexamination to argue or suggest that the claims of the '592
27 are valid or invalid.

28 **IT IS SO STIPULATED**

1 Dated: January 7, 2013

2

3 FRIEDMAN, SUDER & COOKE

4 By: /s/ Corby Vowell

5

6

7

8 MARC J. SCHNEIDER (SBN
#214609)
9 YURI MIKULKA (SBN #185926)
10 STRADLING YOCCA CARLSON
& RAUTH
11 660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6422
Telephone: (949) 725-4000
Facsimile: (949) 725-4100
Email: mschneider@sycr.com
Email: ymikulka@sycr.com

12

13

14 JONATHAN T. SUDER (*admitted Pro
Hac Vice*)
15 CORBY R. VOWELL (*admitted Pro
Hac Vice*)
16 GLENN S. ORMAN (*Pro Hac Vice to
be filed*)
17 FRIEDMAN, SUDER & COOKE
Tindall Square Warehouse No. 1
604 East 4th Street, Suite 200
Fort Worth, Texas 76102
Telephone: (817) 334-0400
Facsimile: (817) 334-0401
Email: jts@fsclaw.com
Email: vowell@fsclaw.com
Email: orman@fsclaw.com

18

19

20

21

22

23

24

25

26

27

28

Attorneys for Plaintiff
INTERTAINER, INC.

Dated: January 7, 2013

GIBSON DUNN, & CRUTCHER LLP

By: /s/ Jason Lo

JOSH KREVITT (SBN # 208552)
GIBSON DUNN & CRUTCHER LLP
200 Park Avenue
New York, NY 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035
Email: jkrevitt@gibsondunn.com

JASON LO (SBN #219030)
RAYMOND LAMAGNA (SBN
#244821)
GIBSON DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197
Telephone: (213) 229-7000
Facsimile: (213) 229-7520
Email: jlo@gibsondunn.com
Email: rlamagna@gibsondunn.com

Attorneys for Defendant
VIACOM INC.

ATTESTATION PURSUANT TO L.R. 5-4.3.4(a)(2)

I, Jason Lo, attest that all signatories listed and on whose behalf this filing is submitted concur in this filing's content and have authorized this filing.

Dated: January 7, 2013 */s/ Jason Lo*

/s/ Jason Lo

Jason Lo

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served on January 7, 2013, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

Dated: January 7, 2013 /s/ *Jason Lo*

/s/ Jason Lo

Jason Lo